



# COUNTY ATTORNEY

HILL COUNTY

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RECEIVED

OCT 01 1997

Opinion Committee

September 30, 1997

The Hon Dan Morales  
Attorney General  
Opinions Committee  
P.O. Box 12548  
Austin, TX 78711-2458

RQ-1055  
FILE # ML-39805-97  
I.D. # 39805

Re: Division of County Funds Allocated for Road and Bridge Maintenance

Dear Sir:

Please consider the following as an official request from Mark F. Pratt, County Attorney, Hill County, Texas, for an official Attorney General opinion on the issues set forth below.

**QUESTION:** Whether Hill County has, for fiscal year 1997-98, divided the road and bridge fund in a legal manner.

Hill County has never adopted any of the optional systems of county road administration under Transportation Code Chapter 252.

The 1997-98 fiscal year for Hill County runs from October 1, 1997 through September 30, 1998. On September 8, 1997, the Hill County Commissioners' Court, by a three to two (3-2) vote adopted the budget for the '97-98 fiscal year. Included in this budget was a division of the estimated revenue for the road and bridge fund. The division of this revenue was as follows:

Precinct 1: 23.9%  
Precinct 2: 23.6%  
Precinct 3: 30.5%  
Precinct 4: 22 %

The above division of funds amongst the four precincts was derived in the same manner as has been done in Hill County since 1983. Said formula was arrived at in 1983 by determining the number of miles of rural road, feet of bridges, and miles of city streets and subdivision streets in each precinct. No consideration was given to the respective tax base of each precinct.

The Commissioner of Precinct #1 has asked that I request this Attorney General's opinion because he is dissatisfied with the current division of road funds. It is his opinion that the number of miles of rural road, feet of bridges, and miles of subdivision streets needs to be updated annually, and that the number of miles of city streets needs to be eliminated from the formula.

The following types of roads and bridges exist in Hill County:

1. County roads and bridges adopted into the county road maintenance system,
2. Public roads and bridges located outside of any incorporated town, but not adopted,
3. Public city streets and bridges,
4. Private roads and bridges located within and without city limits,
5. The following types of subdivision streets and bridges:
  - a. County roads and bridges, (adopted)
  - b. Public roads and bridges, (plat approved, but roads not adopted)
  - c. Private roads and bridges.

While we are aware that any commissioner can bring an action in District Court, seeking an injunction and declaratory relief regarding the current division of road and bridge funds, we thought it would be a more efficient use of all resources to first determine whether the current division was legal. If Hill County should not simply divide the funds according to the tax base of each precinct, then what types of roads and bridges should be included when making a determination as to division of road and bridge funds. In other words, should just those roads and bridges adopted as part of the county road maintenance system be included in making a determination, or should public roads and bridges also be included? If public roads and bridges should also be included, should those public roads and bridges within subdivisions be included, and/or should those public roads and bridges within incorporated cities be included? We all are of the opinion that private roads and bridges within and without subdivisions and incorporated cities should not be included.

Thank you very much for your kind consideration of this matter. If I can be of any assistance, please do not hesitate to contact me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark F. Pratt', with a stylized, flowing script.

Mark F. Pratt

MFP/gys